

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>18</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-41499; File No. SR-NASD-99-25]

### Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the National Association of Securities Dealers, Inc. Relating to Level 1 Market Data Fees

June 9, 1999.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on May 17, 1999,<sup>3</sup> the National Association of Securities Dealers, Inc. ("NASD" or "Association") through its wholly owned subsidiary, Nasdaq Stock Market, Inc. ("Nasdaq"), filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by Nasdaq. On May 28, 1999 Nasdaq submitted Amendment No. 1 to the proposed rule change.<sup>4</sup> The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons. For the reasons discussed below, the Commission is granting accelerated approval of the proposed rule change, as amended.

<sup>18</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> On May 3, 1999, Nasdaq filed a similar proposed rule change, SR-NASD-99-24. On May 14, 1999, Nasdaq withdrew this filing because of procedural issues. See letter to Katherine A. England, Assistant Director, Division of Market Regulation, Commission, from Robert E. Aber, Senior Vice President and General Counsel, Nasdaq, dated May 3, 1999.

<sup>4</sup> In Amendment No. 1, Nasdaq amended the proposed rule change to remove a provision conditioning participation in the pilot program on a participant guaranteeing to pay, at a minimum, 75% of that participant's fee assessment associated with its December 1998 per level query usage and non-professional population. See letter to Katherine A. England, Assistant Director, Division of Market Regulation, Commission, from Thomas P. Moran, Assistant General Counsel, Office of General Counsel, Nasdaq, dated May 27, 1999.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Nasdaq filed a proposed rule change to amend Rule 7010 of the National Association of Securities Dealers, Inc. Under the proposal, Nasdaq will establish a 1 year pilot program, commencing with the April 1, 1999 billing period, to reduce by 50% the fees for Nasdaq Level 1 market data delivered to non-professional users on either a per query or monthly basis.<sup>5</sup>

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Nasdaq included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. Nasdaq has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

#### A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

Nasdaq has consistently supported the broadest, most effective dissemination of market information to public investors. To that end, Nasdaq is proposing a 1 year pilot program to reduce by 50% the fees for Level 1 market data delivered to non-professional users on either a per query or monthly basis. Under the proposed pilot, the per query fee would be reduced from \$.01 to \$0.005 per query and the non-professional per user fee would be reduced from \$4 to \$2 per month.

Reducing these market data fees unequivocally demonstrates Nasdaq's commitment to individual investors and responds to the dramatic increase in the demand for real-time market data by non-professional market participants. In addition, reduced Nasdaq rates will lessen the costs to NASD member firms of supplying real-time market data to their customers through automated means and is also likely to encourage current delayed-data vendors to offer increased access to real-time Level 1 data to their subscribers.

<sup>5</sup> The pilot expires April 1, 2000. If, after assessing the pilot's viability, the NASD decides to make those fees a permanent part of its fee structure, the Commission expects that the NASD will file the proposal for approval. See *NASD Manual*, charges for services and equipment, Rule 7100(b).

Nasdaq believes that the proposed rule change is consistent with the provisions of Section 15A(b)(5)<sup>6</sup> of the Act in that the proposed rule change provides for the equitable allocation of reasonable dues, fees, and other charges among members and issuers and other persons using any facility or system which the association operates or controls.

#### B. Self-Regulatory Organization's Statement on Burden on Competition

Nasdaq does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

#### C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

### III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549-0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of Nasdaq. All submissions should refer to File No. SR-NASD-99-25 and should be submitted by July 9, 1999.

### IV. Commission's Findings and Order Granting Accelerated Approval of the Proposed Rule Change

The Commission finds that the proposed rule change is consistent with the requirements of the Act<sup>7</sup> and the rules and regulations thereunder

<sup>6</sup> 15 U.S.C. 78o-3(b)(5).

<sup>7</sup> In reviewing this proposal, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

applicable to the NASD.<sup>8</sup> Specifically, the proposed rule change is consistent with Section 15A(b)(5)<sup>9</sup> in that the proposal should provide for the equitable allocation of reasonable dues, fees, and other charges among members and issuers and other persons using any facility or system which the Association operates or controls.

Recent technological developments have allowed vendors to provide their customers with more efficient and cost effective methods of executing securities transactions. The Commission expects that by reducing market data access fees the investor will further benefit by a reduction in costs of executing these transactions. For the investor to make sound, financial decisions, efficient and inexpensive access to market data information is vital. Thus, the Commission believes that reducing the market data fees by 50% should enhance investor access and may encourage increased investor participation in the securities markets.

Pursuant to Section 19(b)(2),<sup>10</sup> the Commission finds good cause for approving the proposed rule change, as amended, prior to the 30th day after the date of publication of notice thereof in the **Federal Register**. The Commission believes that granting accelerated approval of the proposal will allow the NASD to expeditiously implement the pilot program to reduce market data fees without any unnecessary delay and should confer a benefit upon those firms that provide real-time data to their customers and subscribers.

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act, that the proposed rule change, as amended, (SR-NASD-99-25) is hereby approved on an accelerated basis, for the pilot period ending April 1, 2000.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>11</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-41515; File No. SR-NYSE-99-20]

### Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the New York Stock Exchange, Inc. Relating to Examination Specifications and Content Outline for the Front Line Specialist Clerk Qualification Examination (Series 21)

June 10, 1999.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on May 14, 1999, the New York Stock Exchange, Inc. ("Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

#### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange has filed the Content Outline and Examination Specifications for the Front Line Specialist Clerk Qualification Examination ("Series 21").

#### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

##### A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

###### 1. Purpose

Exchange Rule 35 requires that employees of members and member organizations must be registered with, qualified by, and approved by the Exchange prior to admittance to the Trading Floor. Currently, the registration process for Floor employees

functioning as Front Line Specialist Clerks ("FLS Clerks") primarily consists of submission of a completed Form U-4 ("Uniform Application for Securities Industry Registration or Transfer") and Fingerprints. Under a proposed interpretation to Rule 35, which has been filed separately with the Commission as a proposed rule change (SR-NYSE-99-19), these FLS Clerks will also have to be qualified by taking and passing an appropriate qualification examination and by meeting appropriate training requirements.

The Front Line Specialist Clerk Qualification Examination ("Series 21") and Content Outline were developed by the Exchange, in conjunction with a Committee of Floor representatives (members, Specialists, and FLS Clerks) in order to qualify FLS Clerks pursuant to proposed amendments to Rule 35. The Series 21 examination will ensure that FLS Clerks have the basis knowledge, skills, and abilities necessary to perform their duties, which include assisting Floor Specialists. The Series 21 examination is the second step in a program to ensure that Floor employees are appropriately qualified. The first step was implementation of the Series 25 Trading Assistant Qualification Examination.<sup>1</sup>

The Content Outline, which may be examined at the places specified in Item IV below, details the coverage of the Series 21 examination. The Series 21 examination is a 90-minute test consisting of 65 questions. A fee of \$200 will be imposed per exam administration. This fee will be the subject of a separate rule filing at a later date. Implementation of the examination is scheduled to take place 90 days after its approval by the Commission.

The requirement to take and pass the Series 21 examination in order to qualify as an FLS Clerk will apply to both current and prospective FLS Clerks. The separately-filed, proposed new interpretation to Rule 35 (SR-NYSE-99-19) will establish that individuals who are currently functioning as FLS Clerks will be required to pass the Series 21 examination within one year of its implementation. The Series 25 qualification examination is a prerequisite, but no training program will be required for these individuals since they are already acting in the capacity of FLS Clerks. Prospective FLS Clerks will be required to complete, at

<sup>8</sup> 15 U.S.C. 78o-3.

<sup>9</sup> 15 U.S.C. 78o-3(b)(5).

<sup>10</sup> 15 U.S.C. 78s(b)(2).

<sup>11</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>1</sup> See Securities Exchange Act Release No. 40943 (January 13, 1999), 64 FR 3330 (January 21, 1999) (SR-NYSE-98-36); Securities Exchange Act Release No. 40944 (January 13, 1999), 64 FR 3329 (January 21, 1999) (SR-NYSE-98-35).